

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS PRODUCTS
LIABILITY LITIGATION

No. 2:15-MD-02641-DGC

SECOND AMENDED MASTER
SHORT FORM COMPLAINT FOR
DAMAGES FOR INDIVIDUAL
CLAIMS AND DEMAND FOR JURY
TRIAL

Plaintiff(s) named below, for their Complaint against Defendants named below,
incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).
Plaintiff(s) further show the Court as follows:

1. Plaintiff/~~Deceased~~ Party:

Donald Butterbaugh

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of
consortium claim:

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
conservator):

4. Plaintiff's/~~Deceased~~ Party's state(s) [if more than one Plaintiff] of residence
at the time of implant:

New York

1 5. Plaintiff's/~~Decedent~~ Party's state(s) [if more than one Plaintiff] of residence
2 at the time of injury:

3 New York

4 6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

5 New York

6 7. District Court and Division in which venue would be proper absent direct
7 filing:

8 U.S. District Court-Western District of New York

9 8. Defendants (check Defendants against whom Complaint is made):

10 ☒ C. R. Bard Inc.

11 ☒ Bard Peripheral Vascular, Inc.

12 9. Basis of Jurisdiction:

13 ☒ Diversity of Citizenship

14 ☐ Other: _____

15 a. Other allegations of jurisdiction and venue not expressed in Master
16 Complaint:

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20 10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making
21 a claim (Check applicable Inferior Vena Cava Filter(s)):

22 ☐ Recovery® Vena Cava Filter

23 ☐ G2® Vena Cava Filter

24 ☐ G2® Express Vena Cava Filter

25 ☐ G2® X Vena Cava Filter

26 ☐ Eclipse® Vena Cava Filter

27 ☐ Meridian® Vena Cava Filter

- 1 ☒ Denali[®] Vena Cava Filter
- 2 ☐ Other: _____
- 3 11. Date of Implantation as to each product:
- 4 April 10, 2016
- 5 _____
- 6 12. Counts in the Master Complaint brought by Plaintiff(s):
- 7 ☒ Count I: Strict Products Liability – Manufacturing Defect
- 8 ☒ Count II: Strict Products Liability – Information Defect (Failure
- 9 to Warn)
- 10 ☒ Count III: Strict Products Liability – Design Defect
- 11 ☒ Count IV: Negligence - Design
- 12 ☒ Count V: Negligence - Manufacture
- 13 ☒ Count VI: Negligence – Failure to Recall/Retrofit
- 14 ☒ Count VII: Negligence – Failure to Warn
- 15 ☒ Count VIII: Negligent Misrepresentation
- 16 ☒ Count IX: Negligence *Per Se*
- 17 ☒ Count X: Breach of Express Warranty
- 18 ☒ Count XI: Breach of Implied Warranty
- 19 ☒ Count XII: Fraudulent Misrepresentation
- 20 ☒ Count XIII: Fraudulent Concealment
- 21 ☒ Count XIV: Violations of Applicable New York (insert
- 22 state) Law Prohibiting Consumer Fraud and Unfair and
- 23 Deceptive Trade Practices
- 24 ☐ Count XV: Loss of Consortium
- 25 ☐ Count XVI: Wrongful Death
- 26 ☐ Count XVII: Survival
- 27 ☒ Punitive Damages
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☐ Other(s): _____ (please state the facts supporting this Count in the space immediately below)

13. Jury Trial demanded for all issues so triable?

☒ Yes

☐ No

RESPECTFULLY SUBMITTED this 11th day of September, 2018.

CELLINO & BARNES, P.C.C

By: /s/ Brian A. Goldstein
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I hereby certify that on this 11th day of September, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Brian A. Goldstein